

**BCC Meeting:
June 15, 2021
Research Notes**

**Item No. 8N3
File No. 211161**

Researcher: VW / Reviewer: PGE

RESOLUTION APPROVING AWARD OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND T.Y. LIN INTERNATIONAL FOR CONSTRUCTION, ENGINEERING AND INSPECTION SERVICES FOR THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS' INFRASTRUCTURE RENEWAL PROJECTS, CONTRACT NO. CIP193-DTPW18-CEI (2), IN AN AMOUNT NOT TO EXCEED \$5,500,000.00, INCLUSIVE OF A CONTINGENCY ALLOWANCE OF \$500,000.00; AUTHORIZING THE USE OF PEOPLE'S TRANSPORTATION PLAN BOND PROGRAM FUNDS FOR THE INFRASTRUCTURE RENEWAL PLAN PROJECTS AND THE METRORAIL ACOUSTICAL BARRIER REPLACEMENT PROJECT WHICH WERE ADDED TO THE FIVE-YEAR IMPLEMENTATION PLAN ON MARCH 7, 2017 AND MARCH 6, 2018; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND TO EXERCISE THE RIGHTS CONTAINED THEREIN [SEE ORIGINAL ITEM UNDER 210893]

Prime Sponsor(s): None

Requester: Transportation and Public Works (DTPW)

Committee Action Date: 5/11/21 - Transportation, Mobility and Planning Committee (TMPC)

RESEARCH FINDINGS

At the May 11, 2021 TMPC meeting the TMPC committee members requested that the Administration include language in the Staff's Recommendation section of the Mayoral Memo specifying that PSAs for Construction, Engineering, and Inspection (CEI) services which utilize federal funding must hire outside consultants. OCA's review of the item does not indicate that any language was added by the Administration specifying that federal funding for CEI services requires the hiring of external consultants as requested by the commissioners at the TMPC meeting.

FINANCIAL ANALYSIS

This Professional Services Agreement (PSA) in the amount of \$5,500,000 includes a base estimate of \$5,000,000 and a contingency allowance of \$500,000.

According to the Non-Exclusive Professional Services Agreement, the PSA is work order driven. According to correspondence with the Chief of Contract Services for DTPW, the funding for the projects in the PSA can be derived from either local, state, or federal funds. While the Mayor's Memo cites three locally funded projects from the People's Transportation Plan (PTP) Bond Program as funding the PSA, projects utilizing federal funding from the Federal Transit Administration (FTA) or state funding from the Florida Department of Transportation (FDOT) can also be used to fund the PSA based on the priority of the projects within DTPW's Infrastructure Renewal Program (IRP).

ADDITIONAL INFORMATION

During the May 11, 2021 TMPC meeting, the committee members raised questions as to why the Construction, Engineering, and Inspection (CEI) services could not be performed in-house. Representatives from the Administration, County Chief Operating Officer and Deputy Director of DTPW notified the committee that the PSA under consideration requires the hiring of outside consultants because federal provisions require the use of outside consultants for any CEI contract which involves federal funding as in the case of this PSA. The TMPC committee members requested that language be added to the Staff's Recommendation section of the Mayoral Memo specifying that federal requirements prohibit the use of in-house staff if federal funding is being utilized. OCA's review of the item reveals that the item has not been updated to include the language requested by TMPC committee members.

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T.Y. Lin International failed to meet the SBE-A&E Goal on a 2015 Seaport contract for civil infrastructure engineering services, *Contract No. E13-SEA-02*. SBD issued the violation to T.Y. Lin International for a \$122,159 SBE-A&E goal deficit on April 17, 2020, while the firm was in the evaluation and selection process for *Contract No. E19-MDAD-01*. At the March 2, 2021 BCC meeting, T.Y. Lin International was awarded a PSA for Concourse E New Pre-Conditioned Air Chiller Plant, *Contract No. E19-MDAD-01*, through [Resolution No. R-133-21](#). The violation resulted in a \$244,318 makeup requirement with a 20% of the \$122,159 SBE-A&E goal penalty of \$24,432. Pursuant to SBD policy and [County Code Section 2-10.4.01](#), the firm was required to pay any unpaid penalties prior to any future award. T.Y. Lin International paid the penalty to the County on June 2, 2020, after the Competitive Selection Committee recommended the firm for award of *Contract No. E19-MDAD-01*, on April 29, 2020.

The item being brought before the Board is a substitute item. The substitute differs from the original in that the original memo indicated that the Division of Small Business Development (SBD) approved a make-up plan in the amount of \$200,000.00 with an outstanding goal deficit of \$44,318.00 as of September 10, 2020. On May 3, 2021, SBD approved an updated make-up plan in the total amount of \$244,318.00, which is reflected in this substitute. As explained in the previous paragraph, T.Y. Lin International is required to pay the SBD penalty for failing to meet the SBE-A&E Goal on a 2015 Seaport contract, *Contract No. E13-SEA-02*. The item is being brought before the June 15, 2021 BCC rather than the June 2, 2021 BCC due to the fact that the item required CITT approval which was only granted on May 27, 2021 after the printing deadline for the June 2, 2021 BCC.

The firm is the defendant in an ongoing wrongful death lawsuit (Case No. 2017-L-008009) filed on August 8, 2017 in Cook County Circuit Court, wherein T.Y. Lin International, who was contracted by the City of Chicago to provide construction management and consultant services to the City of Chicago's Department of Water management on various sewer improvement projects, was allegedly negligent in failing to provide protection, supervision and adequate instruction to its workers, resulting in decedent being buried alive while working in the trench dug of the firm's sewer improvement project. The latest court action on the case was an amendment of the complaint to add a party filed on May 20, 2021 by the plaintiff.